

## **PUBLIC HEARING AGENDA REQUEST**

**Owners/Applicants:**

Angler Opal Associates, LLC

**Planning Commission Meeting Date:**

April 26, 2007

**Staff Lead:**

Melissa Dargis, Assistant Chief of Planning

**Department:**

Community Development

**Magisterial District:** Cedar Run

**PIN:**

**Service District:** Opal

6981-27-6354-000, 6981-44-4079-000 and  
6981-54-4190-000

**Topic:**

Willow Creek: A Request to Amend the Proffers for a Previously Approved Rezoning REZN05-CR-004 (Formerly Green Springs)

**Topic Description:**

The applicant wishes to amend the previously existing Proffer Section III related to below market priced housing for Willow Creek.

**Project Update:**

On March 29, 2007, the Planning Commission held a public hearing on this item; action postponed, at the applicant's request, to work out refinements. On March 27, 2007, the applicant submitted a new draft proffers. In addition, staff and Commissioner Stone have met with the applicant to discuss the project. Staff notes that the applicant has requested early advertisement to the May 10, 2007 Board of Supervisors meeting.

The proffers indicate 15 units onsite are dedicated for workforce housing. According to the proffers, this housing is reserved for Fauquier County sheriff's deputies, public school teachers, and any other Fauquier County or School Division employees who have been employed for not less than three years. If any of these units cannot be filled with a qualified homeowner through the Board of Supervisors appointed non-profit committee, as identified in the proffers, the developer has now proffered \$55,000, to the County, for each lot that falls into that situation. The Committee can then use those funds as a "soft second" mortgage which qualified purchasers could use to buy a home anywhere within the county, subject to the same resale restrictions outlined in the proffers. In addition, the applicant increased the proffer amount by \$14, 470 for the "portable soft second" and it now totals \$69,470.

**Staff Report:**

The applicant submitted a request to amend the proffers in order to allow for the approved workforce units procedure to be clarified. It specifies that individuals must qualify (financially) for the program, units must be owner occupied principal residences, and the units shall be dispersed within the development and not be distinguishable from market-rate housing.

This rezoning (formerly known as Green Springs) was originally approved in October 13, 2005. Its approval was for the rezoning of approximately 165.0 acres from Residential (R-1) conditional to Residential R-1 and R-2 with proffers to allow for a residential subdivision. The approval included, via proffers, fifteen (15) workforce housing units. For individual family's to qualify, they must have a cumulative income not exceeding 80% of the region's median income. Additional density was granted along with a Comprehensive Plan Amendment, to extend utilities, because the application proffered fifteen (15) single family units of workforce housing to the County. Staff notes that the, per unit, proffer for the market rate units for this project is \$14,730 and start at building unit thirty-two (32). The current proffer policy is \$28,503 and starts with the first building unit.

With the current proposal, it seems that with the applicant's proposed proffer amendment that instead of 15 housing units the County may very well end up with a monetary contribution of \$55,000 per unit, for a cumulative total of \$825,000 – plus the \$14,470 proffer, per unit, if the unit goes market rate. In today's market that amount would likely only be able to fund the purchase/construction of one (1) or two (2) single family housing units. However, the \$55,000 could be used at another project to help folks buy a unit that might be in a different price range. The cumulative income level to qualify today for 80% of the median income in Fauquier County would be as follows: (1) 2-persons (\$46,400); (2) 3-persons (\$52,500); (3) 4-persons (\$58,000). This means that affordable housing ownership for this income group would be in the range of \$145,500 to \$242,000±. Excluding lot value costs, the selling price for the adjacent Green Meadows subdivision's base units was approximately ±\$350,000. With soft second mortgages, the objective was to have 15 homes available as affordable units (\$295,000±). The dwelling units were to be indistinguishable from the market units in terms of both architecture and size.

Albeit a noble intent to provide 15 single family homes, due to high market costs (building costs) and unknowns about the qualified applicant pool (potential buyers), the program, as proposed, may not succeed. Instead, it has been suggested by staff in the past that the applicant offer well designed attached units or smaller single family units which fit the neighborhood, include smaller square footage and stay within the cost range of \$145,000 to \$242,000. The American Planning Association's "Planning" magazine, consistently stresses that one does not forfeit home design quality with less square footage, and presents almost monthly how other communities nationwide have made that very connection in insuring their residents have affordable housing. However, the applicant has indicated their commitment to having the workforce units to be similar to the market rate units so they may not be able to achieve this goal on site. The Planning Commission has also suggested applying the current proffer policy to this rezoning, in the amount of \$28,503.

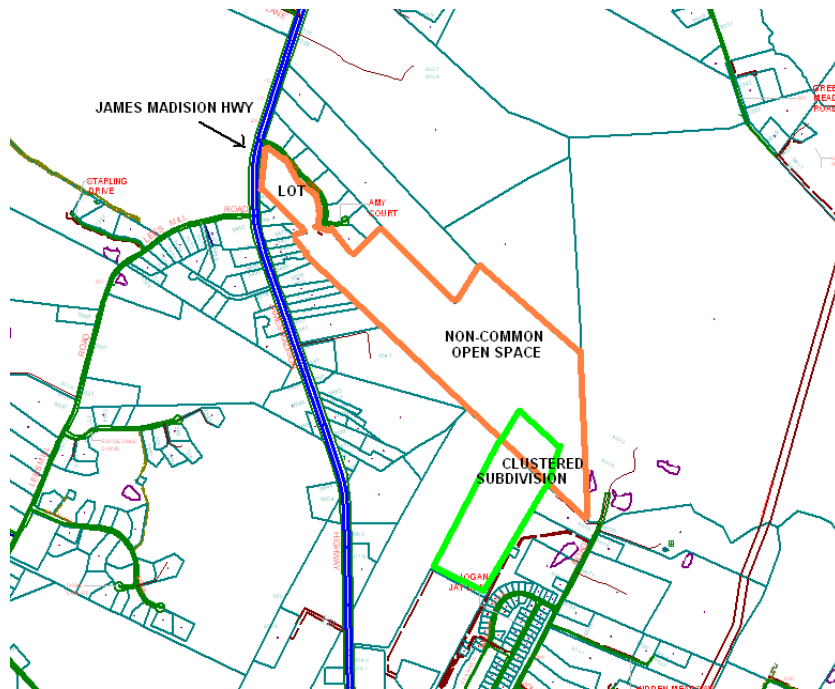
The County needs 15 workforce housing units. These do not have to be single family units –

the units could appear aesthetically to be a single family residence but instead be divided into 2 or 3 units. Even condominiums or more dense housing could be considered. The goal is to have 15 of the units at this location meet the intent of the original proffers. In meetings with Fauquier Housing Corporation (FHC) to discuss determining potential qualified applicants for these units, it was clear that a full-size single family residence would not be appropriate for all those in need of housing. Rather, matching the housing type and size to the applicants financial means and physical need (size of family) was paramount.

Local wages have not risen as fast as home prices and rents in the area. There is a great demand for housing units due to the county's proximity to the Washington D.C. metropolitan area. Washington D.C. has added more jobs than any other metro area in the past five years. This regional growth creates great pressure on the housing market and pushes the average housing and rents significantly upward, even in Fauquier County. This escalating housing cost in turn puts additional strain on local service providers such as teachers, sheriff's deputies, government employees, and small business owners who cannot afford to live in the communities that they serve.

### **Land Area, Location and Zoning:**

The property is located on the east side of Routes 29/15/17. A map of the properties is shown below.



### **Neighboring Zoning/Land Use:**

The property is bounded by Rural Agricultural (RA) to the north and east and RA and R-1 to the south and west.

**Action Requested of the Planning Commission:**

Conduct a public hearing on the proposed Rezoning Request.

**Staff Analysis:**

Staff and the appropriate referral agencies have reviewed this request for conformance with the Comprehensive Plan, the Zoning Ordinance, and other relevant policies and regulations. Findings, comments, and recommendations are summarized below. The actual responses from referral agencies are available upon request.

**Zoning Office**

The Zoning Office has the following comments:

*Staff acknowledges that the language of these proffers have previously been approved by the Board of Supervisors, and that only the proffers related to the workforce housing are proposed to be changed. However, staff continues to offer comments on all of the proffers because of concerns about the language originally approved. These comments are intended to clarify the meaning of the proffers so that staff can properly administer them and avoid conflicts in interpretation as the development proceeds.*

**Zoning Comments Carried Over from Last Review:**

1. Proffer 1.1 must be in compliance with Zoning Ordinance (Z.O.) Sec. 13-202.D.5 which limits changes to the Concept Development Plan (CDP) to reasonable changes necessary for *engineering* reasons. The proffer statement should make clear that any reasonable adjustments to the CDP will be for engineering reasons. In any case, proffers do not modify or waive zoning requirements.
2. Proffer II.1 conflicts with the Zoning Ordinance; it states the “proposed R-1 cluster portion of the property shall provide not less than 15% open space.” Any cluster portion must provide 50% open space and any conventional R-1 must provide 25% open space, as no reduction in open space has been requested or approved by special exception, as required (Zoning Ordinance Section 2-406).

**New Zoning Comments:**

3. In the first paragraph of Item III, proffers are enforced as zoning conditions. Zoning conditions cannot be modified by agreement. This language should be stricken from the proffers.
4. It is not clear how the amount of \$55,000.00 per housing units (up to 15 housing units) was arrived at. It appears that this is based on a percentage of the average prices of housing units in Willow Creek or in the County as a whole. The higher the prices of housing units are to be in Willow Creek, the less incentive \$55,000 will be. For example, a \$55,000 incentive does not make a \$1m house affordable. This being the

case, it is possible that paying a regular “market price” for a house elsewhere in the County might be less expensive than taking advantage of the proffered \$55,000. It is noted by the Applicant that buyers might wish to buy elsewhere in the County since the Applicant is proffering the \$55,000 to include housing units throughout the County and the Town of Warrenton. More information regarding these matters is needed in order to establish that \$55,000 is sufficient to accomplish the stated intentions in the proffers.

5. It is not clear whether the \$55,000 incentive is taxable income to the employee. Explain who pays the taxes on the \$55,000 incentive in the proffers.
6. Explain whether there is an income level qualification for the eligible employees mentioned in Item III.1.
7. Item III.3, it appears that all workforce housing will need to be sold or contracted a year after the foundation for the first home is laid on the property (entire subdivision). In Item III.4, there is a staggered schedule proffered for contributions of the \$55,000 increments for workforce housing. In Item III.5, it is unclear when contributions other than the down payment are to be made. Contributions should be made as housing units are sold or contracted up to the 15 housing units. Clearer language or a table should be provided to make this information more understandable and less confusing.
8. Item IV.3, the Zoning Ordinance requires all residential structures to be 25 feet away from the 100-year floodplain elevation, not just outside the floodplain. The Zoning Ordinance cannot be amended by a proffer and this language is meaningless and should be removed.
9. Item IV.4, the reference to the Northern Virginia BMP Handbook, seeks to bind the County to a particular interpretation. A proffer cannot tie the County; only the applicant, and therefore the language is meaningless and should be removed from the proffers.
10. References to the “Applicant” are made in Items IV.4. V.1, V.2, VI.1, VI-2. The language should be generalized for example, the language of the 2<sup>nd</sup> paragraph under Item IV.4 should be rewritten to read as:
 

*“A “super silt fence” shall be installed along the rear property lines of lots #48 - #51 to provide a tree saved area to the adjacent property owner to the east (i.e. PIN # 6981-54-4190).”*
11. Item V.1 and Item V.2, no statement is made as to when the recreation improvements will be installed.
12. Item VI.1, is the applicant the only one who will use the new road? What about everyone else? This language should be clarified.
13. Item VI.1, if no public roadway is agreed to by the adjacent property owner is there no

use? This language should be clarified.

14. Item VI.4, what does “heavy construction traffic” mean? The language should be changes to state that no construction traffic shall access the property from...

**Summary and Recommendations:**

It is recommended that the Planning Commission hold the public hearing on this item. Staff notes that the applicant has requested early advertisement to the May 10, 2007 Board of Supervisors meeting and thus, is asking for Planning Commission action at this meeting.

Ultimately, the Planning Commission will have to consider whether or not the workforce housing provisions contained in the proposed proffers are appropriate and will still meet the intent of the original rezoning.

Staff encourages the applicant to consider refining its proposal to achieve the 15 workforce housing units onsite or to consider the Planning Commission’s request for the current proffer policy (e.g., for the workforce housing: \$28,503 in lieu of the \$14,470, plus the \$55,000). The \$69,470 can serve as a “soft second” mortgage portable to other homes that are for sale (single family, town house or condominium) countywide, subject to the terms of the Proffer Statement. This specific proffered contribution would be for the benefit of Fauquier County and School Division employees.

The Planning Commission and staff have noted with this amendment to the approved rezoning for Willow Creek that the homes did not need to be restricted to only 15 single family detached units. Options for single family attached and condominiums as a substitute could be viable, with smaller units envisioned. However, this position is contrary to information shared with the adjoining subdivision and the unified housing objective represented in the original rezoning. Residents were informed that the Willow Creek homes (market rate versus workforce housing) would be indistinguishable in design and size, and similar to their community.

This project presents a unique opportunity to establish an effective start-up model for integrating affordable workforce housing within our growing Service Districts. These districts are intended to provide the full inventory of housing types and opportunities for our existing and future resident population.

**Identify any other Departments, Organizations or Individuals that would be affected by this request:**

1. Fauquier County Department of Community Development
2. Virginia Department of Transportation

**Attachments:**

1. Project Proffers